

Shortened School Days: What IEP Teams Need to Know

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1. What is the general requirement regarding the length of the school day for students with disabilities?

Wisconsin public schools share responsibility with parents/guardians to ensure school-age children are enrolled in and attending appropriate educational programs. Under Wisconsin's compulsory school law, all children between age 6 and 18 must attend a public or private, or a home-based private educational program (home schooling) unless the student is excused under the law or has graduated with a regular diploma. Specifically, the statute requires "any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age" [Wis. Stat 118.15(1)(a)].

For students age 5 attending full day kindergarten programs, the statute requires a child who is enrolled in 5-year-old kindergarten in a public or private school to regularly attend kindergarten during the school year. Districts may still offer full-day, part-day, or both full and part-day 5K programs. Attendance is mandatory for whatever program in which the child is enrolled [Wis. Stat 118.15(1)(am)].

Wisconsin's compulsory school law applies to students with disabilities in the same manner as it applies to students without disabilities. All students including students with disabilities have the right to an education, including the right to attend school for the full number of hours and minutes. In addition, the Individuals with Disabilities Education Act (IDEA) indicates removal of children with disabilities from the regular educational environment should occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

2. When is it appropriate for a school district to implement a shortened school day for a student with a disability?

The only time it is appropriate to shorten the school day for a student with a disability is when the student's IEP team determines a shortened day is required to address the student's unique disability-related needs. For example, if a student is physically unable to tolerate a full school day, a shortened day may be appropriate.

When a student's school day is shortened, the student's IEP must include:

- An explanation of why a shortened day is required, and
- A description of the extent to which the student will not participate with nondisabled peers in the regular class and in activities that allow him or her to make progress in the general education curriculum, non-academic, and extracurricular activities and participate with non-disabled peers, and
- A plan for the student's return to school for a full day, including a plan to meet more frequently to review student data to determine whether the student is able to return to school full-time.

The student should return to a full day as soon as he or she is able, and under most circumstances, a shortened school day should be in place for only a limited amount of time.

3. Must an individualized education program (IEP) team meeting be held before shortening the length of a student's school day?

Yes. Shortening a student's school day is a change in the student's placement. All placement changes must be made by the student's IEP team during an IEP team meeting.

4. Must a school district shorten a student's school day upon request of the student's parent?

No. If a parent requests a change in the length of the student's school day, the district must respond to the parent's request. However, any changes to the regular school schedule must be made by the student's IEP team, which includes the parent. The only time it is appropriate to shorten the school day for a student with a disability is when the student's IEP team determines a shortened day is required to address the student's unique disability-related needs, and must be reflected in the student's IEP, including documentation of the reasons for the shortened day.

5. May a school district implement a standard shortened school day for all or for a group of students with disabilities?

No. Any decision to shorten a student's school day must be made on an individual, case-by-case basis by the student's IEP team. For example, it is not appropriate for a school district to establish an alternative program for students with disabilities with fewer hours of instruction than the regular school day.

6. May a school district implement a shortened school day for a student based on issues related to transportation?

No. A school district may not reduce a student's instructional time by starting the student's school day later or releasing the student earlier than nondisabled peers in order to accommodate transportation schedules. For example, it is not appropriate for a district to release students with disabilities earlier than their nondisabled peers in order to schedule an earlier bus route.

7. May an IEP team implement a shortened school day for a student in order to manage student behavior or as a means of discipline?

No. Shortened school days may not be used to manage student behavior or as a means of discipline. A school district may not reduce a student's instructional time as a form of punishment or in lieu of suspension or expulsion, nor may a shortened school day be implemented in lieu of providing appropriate behavioral interventions and supports. In addition a school district may not require a student to "earn" back the return to a longer or full school day by demonstrating good behavior. Attendance may not be conditioned upon the student's taking medication or receiving treatment, therapies, or other outside services.

8. May an IEP team shorten a student's school day for administrative convenience?

No. A student's school day may not be shortened for administrative convenience including staffing shortages.

9. May an IEP team shorten a student's school day to accommodate regularly scheduled outside therapies?

No. IEP teams must not shorten a student's school day solely to accommodate regularly scheduled non-school medical or therapeutic appointments. Parents and districts should communicate regarding regularly scheduled planned absences. When regularly scheduled, planned excused absences are anticipated, the IEP should meet to determine how to continue to provide FAPE for the student. **Districts must refer to their local attendance and excusal policies to determine whether absences are excused.**

10. How should a shortened school day be documented in the student's IEP?

The IEP team has several options as to which section of the IEP to include this documentation of the justification for the shortened school day and the plan for returning the student to a full school day. For example, teams may choose to include documentation in Form 1-4 (Present Level of Academic Achievement and Functional Performance), Form 1-9 in the Program Summary and in section V. documenting the student's participation in regular education classes and settings, and/or on form P-2 (Determination and Notice of Placement.)

The IEP should include goals and/or services designed to address the disability related needs that result in a decision to shorten the student's school day. The IEP must include a clear description

of the special education, related services, and supplementary aids and services to be provided including the amount, frequency, location and duration of services.

The IEP for a student with a shortened school day must include a plan to increase the amount of time the student spends in school to that of all other students. The plan should be clearly documented in the IEP

11. After an IEP team has implemented a shortened school day for a student, what obligation does the school district have to monitor the shortened day program?

School districts, through the IEP team process, should continuously monitor and review the student's progress and plan frequent IEP team meetings to determine whether a shortened school day continues to be necessary to meet the student's unique, disability-based needs. The student should return to a full day as soon as he or she is able, and under most circumstances, a shortened school day should be in place for only a limited amount of time

12. If a previously implemented shortened school day is no longer necessary for a student, what steps must a district take in order to lengthen the student's school day?

If a previously implemented shortened school day is no longer necessary for a student, then the school district must conduct an IEP team meeting to change the student's placement to a full school day. The IEP team must also review the student's IEP to ensure that it reflects a full day program with the requisite services and supports needed for the student's individualized needs. A copy of the revised IEP and notice of placement must be provided to the parent.

13. Who makes the final decision if there is a disagreement between the school district and the student's parents in determining whether to implement a shortened school day?

Although the parents are equal participants in the IEP team, the school district is ultimately responsible for providing the student with the services necessary to provide FAPE. Therefore, if a consensus cannot be reached during an IEP meeting, the school district can move forward in developing the IEP and determining placement. However, if there is a disagreement, there are dispute resolution options available to the parent as discussed below.

14. What can a parent do if they disagree with an IEP team's decision to implement a shortened school day?

If a parent disagrees with the decision to implement a shortened school day, the parent may file a request for a due process hearing request challenging the IEP team's decision. The request must be filed within one year of the decision to shorten the school day. Additionally, the parent may elect to participate in mediation with the school district to resolve the dispute. Mediation is a voluntary process conducted by a trained, neutral mediator who helps facilitate discussion and assists parties in reaching a resolution. Finally, the parent may file a special education complaint with the Wisconsin Department of Public Instruction. The complaint must be in writing, signed, and submitted within one year of the decision to shorten the school day.

15. If a parent files a due process hearing to challenge a school district's decision to implement a shortened school day, what happens to the student's program length during the hearing?

A parent may invoke the “stay put” provisions of IDEA only if the parent files a due process hearing request. These provisions provide that while the resolution of the disputed placement is pending, the student will remain in the then-current placement unless the parents and the school district agree otherwise. If a parent files a due process request hearing after an IEP team meeting where a shortened school day placement is proposed but before the new placement is implemented, the student must remain in the placement effective before the IEP team meeting.